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THIS IS NOT A DISCIPLINARY
ACTION OR FINAL DECISION
OF THE BOARD

8 BEFORE THE
9 CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. AC- 2010-32

12 ANTHONY A. TIONGSON
12450 E. Oak Creek Lane
13 Cerritos, CA 90703

ACCUSATION

14 Certified Public Accountant License No. 16032

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Patti Bowers (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the California Board of Accountancy, Department of
21 Consumer Affairs.

22 2. On or about December 11, 1970, the California Board of Accountancy issued
23 Certified Public Accountant License No. 16032 to Anthony A. Tiongson (Respondent). This
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on March 31, 2013, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the California Board of Accountancy
28 (Board), Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 STATUTORY PROVISIONS

3 4. Section 5100 states:

4 "After notice and hearing the [Accountancy] board may revoke, suspend, or refuse to
5 renew any permit or certificate granted under Article 4 (commencing with Section 5070) and
6 Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate
7 for unprofessional conduct that includes, but is not limited to, one or any combination of the
8 following causes:

9 (a) Conviction of any crime substantially related to the qualifications, functions
10 and duties of a certified public accountant or a public accountant.

11

12 (c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in
13 the same or different engagements, for the same or different clients, or any combination of
14 engagements or clients, each resulting in a violation of applicable professional standards that
15 indicate a lack of competency in the practice of public accountancy or in the performance of the
16 bookkeeping operations described in Section 5052.

17

18 (g) Willful violation of this chapter or any rule or regulation promulgated by the
19 Board under the authority granted under this chapter.

20

21 (h) Suspension or revocation of the right to practice before any governmental
22 body or agency.

23

24 (j) Knowing preparation, publication or dissemination of false, fraudulent, or
25 materially misleading financial statements, reports, or information."

26 5. Section 490 states, in pertinent part, that a board may suspend or revoke a
27 license on the ground that the licensee has been convicted of a crime substantially related to the
28 qualifications, functions, or duties of the business or profession for which the license was issued.

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STATEMENT OF FACTS

9. On or about April 1, 2009, Respondent was convicted on his plea of guilty to one count of violating Title 26, U.S. Code, Section 7207 (filing a false tax return), a misdemeanor, in the United States District Court, Central District, State of California, Case No. SACR 08-31-AG entitled, *United States of America v. Anthony Antonio Tiongson*.

10. While Respondent was convicted of one count of filing a false tax return, the circumstances surrounding the conviction are that for four years from 1999 to 2003, Respondent filed false federal income tax returns for approximately 20 to 25 clients. In those returns, Respondent falsely claimed his clients' income earned in California was not subject to federal income tax. He had his clients claim their California income was actually foreign income by filing a Form 2555, Foreign Income Exclusion, a form typically filed by those living abroad for an extended period of time.

11. Respondent began filing tax returns using the Foreign Income Exclusion forms in 1999 after attending a seminar that presented a scheme for domestic residents to evade income and employment taxes. Under this scheme, tax filers would claim that income earned in California (and other states) is not subject to federal income tax, because, its proponents claim, California is not a state for purposes of the Internal Revenue Code (they believe federal income tax laws only apply to federal enclaves, such as the District of Columbia and Puerto Rico, but not any of the 50 states).

12. On or about 2003, the Internal Revenue Service (IRS) began auditing Respondent's clients for whom he had filed frivolous Foreign Income Exclusion forms. The IRS required these clients to return the tax refunds that were granted as a result of filing these forms. These clients also paid penalties and interest. The IRS assessed paid-preparer penalties against Respondent, as well, for filing frivolous tax returns. Respondent ceased filing Foreign Income Exclusion forms following these audits.

13. After Respondent pled guilty to filing a false tax return in 2009, the IRS suspended Respondent, barring him from representing clients before the IRS.

14. After being suspended by the IRS, Respondent sold his accounting practice to

1 his son. Respondent still performs accounting duties for his son's practice.

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Substantially Related Conviction)**

4 15. Respondent is subject to disciplinary action under sections 5100(a) and 490, in
5 conjunction with California Code of Regulations, title 16, section 99, in that Respondent was
6 convicted of filing a false federal tax return, a crime substantially related to the qualifications,
7 function, or duties of an accountant, as set forth in paragraphs 9 through 14, incorporated and
8 realleged herein by this reference.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Dishonesty and Fraud)**

11 16. Respondent is subject to disciplinary action under section 5100(c) for
12 dishonesty and fraud in that Respondent filed false tax returns claiming his clients' California
13 income was subject to the foreign income exclusion as set forth in paragraphs 9 through 14,
14 incorporated and realleged herein by this reference.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Repeated Negligent Acts)**

17 17. Respondent is subject to disciplinary action under section 5100(c), in that
18 Respondent repeatedly filed false or misleading tax returns for approximately 20 to 25 clients
19 over a span of approximately four years as set forth in paragraphs 9 through 14, incorporated and
20 realleged herein by this reference. These repeated acts failed to meet the standard of care
21 expected of accountants in preparing tax returns.

22 18. Professional standards for preparing tax returns require a tax preparer to in
23 good faith believe that a tax return position is warranted in existing law, and, in reaching such a
24 conclusion to consider a well-reasoned construction of the applicable statutes, well-reasoned
25 articles or treatises, or pronouncements issued by the applicable taxing authority.

26 19. Respondent's position that California is not part of the United States for income
27 tax purposes, and that income earned in California could be treated as foreign income was not a
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1 well-reasoned construction of the applicable statutes, was not supported by well-reasoned articles
2 or treatises, and has been condemned by IRS pronouncements.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Willful Violation of Rules Promulgated by the Board)**

5 20. Respondent is subject to disciplinary action under section 5100(g), for violating
6 Board Rule 58, in that he failed to comply with professional standards in filing Foreign Income
7 Exclusion forms, intended for nonresidents, for California residents, as set forth in paragraphs 9
8 through 14, and paragraphs 18 through 19, incorporated and realleged herein by this reference.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Suspension of the Right to Practice before Any Governmental Body)**

11 21. Respondent is subject to disciplinary action under section 5100(h), in that the
12 IRS has suspended his right to practice before the IRS, as set forth in paragraphs 9 through 14,
13 incorporated and realleged herein by this reference.

14 **SIXTH CAUSE FOR DISCIPLINE**

15 **(Knowing Preparation of False or Materially Misleading Financial Statements)**

16 22. Respondent is subject to disciplinary action under section 5100(j), in that he
17 knowingly prepared false or materially misleading information for his clients, as set forth in
18 paragraphs 9 through 14, incorporated and realleged herein by this reference. Respondent falsely
19 submitted Foreign Income Exclusion forms for California residents knowing that their income
20 was earned in California.

21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein
23 alleged, and that following the hearing, the Board issue a decision:

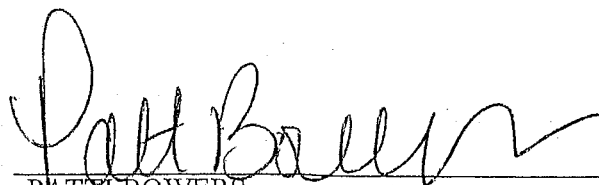
24 1. Revoking, suspending, or otherwise imposing discipline upon Certified Public
25 Accounting License No. 16032, issued to Anthony T. Tiongson;
26 2. Ordering Anthony T. Tiongson to pay the Board the reasonable costs of the
27 investigation and enforcement of this case, pursuant to Business and Professions Code section
28 5107;

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3. Taking such other and further action as deemed necessary and proper.

DATED:

July 8, 2011



PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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